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6 UNITED STATES DISTRICT COURT  
7 DISTRICT OF NEVADA

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9 HUGO APARICIO,

10 Plaintiff,

Case No. 3:13-cv-00469-MMD-WGC

11 v.  
12 STATE OF NEVADA,  
13 et al.,  
14 Defendants.

ORDER

15 Plaintiff, who is a prisoner in the custody of the Nevada Department of  
16 Corrections, has submitted an Emergency Motion for Preliminary Injunction (dkt. no.1),  
17 but has not submitted either a civil rights complaint pursuant to 42 U.S.C. § 1983 or an  
18 application to proceed in forma pauperis.

19 Without the filing fee or leave to proceed in *forma pauperis*, the matter has not  
20 been properly commenced. See 28 U.S.C. § 1915(a) and Local Rule LSR1-2 (to  
21 proceed with a civil action without prepaying the required filing fee a petitioner must  
22 submit a sworn affidavit stating all his assets and attach both an inmate account  
23 statement for the past six (6) months and a properly executed financial certificate.)  
24 Without a civil complaint, the bases of the claims supporting the motion are unknown.

25 Nonetheless, the Court has reviewed the motion for emergency preliminary  
26 injunction and finds that there does not appear to be such an emergency that plaintiff  
27 cannot provide the proper forms and fees. The medical condition that plaintiff discusses  
28 in his emergency motion has been under medical review since May of 2013, and

1 plaintiff alleges as much. His disagreement with the type of treatment given does not  
2 create an emergency which would justify proceeding in the absence of the required  
3 items.

4 It does not appear from the papers presented that a dismissal without prejudice  
5 will materially affect a later analysis of any timeliness issue with regard to a promptly  
6 filed new action. The present action will be dismissed without prejudice to the filing of a  
7 new complaint in a new action with a pauper application on the proper form with all  
8 required attachments.

9 IT THEREFORE IS ORDERED that the action shall be DISMISSED without  
10 prejudice to the filing of a new complaint in a new action with a properly completed  
11 pauper application.

12 IT FURTHER IS ORDERED that the Clerk shall send plaintiff two (2) copies each  
13 of an application form to proceed *in forma pauperis* for incarcerated persons and a §  
14 1983 civil rights complaint form, one (1) copy of the instructions for each form, and a  
15 copy of the papers that he submitted in this action.

16 The Clerk of Court shall enter final judgment accordingly in favor of respondents  
17 and against plaintiff, dismissing this action without prejudice.

18 DATED this 11<sup>th</sup> day of September 2013.

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21 MIRANDA M. DU  
22 UNITED STATES DISTRICT JUDGE  
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